

Remarks

The Examiner's Office action mailed November 27, 2009 has been reviewed. Claims 2, 3, 5, 6, 7, 11, 16, 21, 24, 25, 34, 36, 41, 42, 43, 44, 51, 52, and 53 have been amended. Claims 1, 35, and 45 have been cancelled. In view of the following remarks, Applicant respectfully submits that the application is in condition for allowance.

Claim Rejections Under 35 U.S.C. § 112

Claims 2-67 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the Examiner asserts the second step (i.e., the receiving a plurality of second messages step) "requires the second messages to be received while processing the first message, which means that the update flag in the third step is always going to be set. This in turn means that conditions will be met to trigger "skipping and not processing each order price change information of the plurality of second messages at the trading system" and "transmitting a third message from the trading system requesting current market information from the exchange system."¹ Applicant points out that "If the claims, read in light of the specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the statute (35 U.S.C. §112, second paragraph) demands no more."²

Applicant has amended claim 2 and asserts that it clearly points out and distinctly claims the subject matter, which Applicant regards as the invention. Amended claim 2 now recites, in part, "setting an update flag at the at least one processor of the trading system upon receiving ***if a first one of the a plurality of second messages is received while processing the first message,*** the plurality of second messages each comprising order price change information and upon completing processing of the first message, determining if the update flag is set at the at least one

¹ See Office Action, page 5.

² *Shatterproof Glass Corp. v. Libbey Owens Ford Co.*, 758 F.2d 613, 225 USPQ 634 (Fed. Cir. 1985) (interpretation of "freely supporting" in method claims directed to treatment of a glass sheet); *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81 (Fed. Cir. 1986) (interpretation of a limitation specifying a numerical value for antibody affinity where the method of calculation was known in the art at the time of filing to be imprecise).

processor” and “if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting current market information from the exchange system.” As described in the application:

“[T]he trading system may skip messages received while it is processing another message. In one embodiment, if a message is received from the trading exchange 104 while the trading system 106 is processing a prior message, the trading system trips an update flag. In one example of this embodiment, the trading system does not process the order data in the message. In another example, the trading system dumps the message and its contents while tripping the update flag or after the update flag is tripped.

When the trading system has completed processing the prior message, the trading system determines if the update flag has been tripped. If the update flag has been tripped, the trading system synchronizes the order data for the selected market or markets. In one example of this embodiment, the trading system requests the current order data from the trading exchange 104 if the update flag has been tripped.” (See Application at paragraph 62-63.)

Applicant submits amended claim 2 reasonably apprises those skilled in the art both of the utilization and scope of the invention when read in light of the specification, and is in compliance with 35 U.S.C. § 112, second paragraph. Therefore, Applicant requests that the rejection of claim 2 be removed. Claims 3-10 depend from claim 2 and comply with 35 U.S.C. § 112, second paragraph for the same reasons as the claim from which they depend.

Regarding claims 11-15, the Examiner asserts that claims 11-15 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply. Applicant submits that claim 11 is allowable for the same reasons as claim 2.

For example, amended claim 11 now recites, in part, “upon completing processing the first message determining if at least one second message was received at the trading system while processing the first message, the at least one second message comprising at least one order price change information” and “if the at least one second message was received, skipping and not processing the at least one order price change information of the at least one second message at the at least one processor of the trading system and transmitting a third message from the trading system requesting current market information from the exchange system.” Applicant submits amended claim 11 reasonably apprises those skilled in the art both of the utilization and scope of the invention when read in light of the specification, and is in compliance with 35 U.S.C. § 112,

second paragraph. Therefore, Applicant requests that the rejection of claim 11 be removed. Claims 12-15 depend from claim 11 and comply with 35 U.S.C. § 112, second paragraph for the same reason as the claim from which they depend.

Regarding claims 16-23, the Examiner asserts that claims 16-23 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply. Applicant submits that claim 16 is allowable for the same reasons as claims 2 and 11.

For example, amended claim 16 now recites, in part, “upon completing processing the first message determining if other messages were received at the trading system while processing the first message” and “if other electronic messages were received, skipping, and not processing at the at least one processor, a plurality of the other messages received at the trading system and processing a most recently received message from the plurality of received messages at the trading system, the most recently received message comprising current market information.” Applicant submits amended claim 16 reasonably apprises those skilled in the art both of the utilization and scope of the invention when read in light of the specification, and is in compliance with 35 U.S.C. § 112, second paragraph. Therefore, Applicant requests that the rejection of claim 16 be removed. Claims 17-23 depend from claim 16 and comply with 35 U.S.C. § 112, second paragraph for the same reason as the claim from which they depend.

With regard to claim 24, the Examiner asserts that claim 24 recites similar limitations as those found in claims 1-10; therefore the same rejections apply. Applicant submits that claim 24 is allowable for the same reasons as claims 2, 11, and 16.

For example, amended claim 24 now recites, in part, “upon completing processing of the order determining if a plurality of messages were received from the trading exchange at the trading system while processing the order” and “if the plurality of messages were received, skipping, and not processing at the at least one processor, a first plurality of the received messages and processing a most recently received message from the plurality of received messages at the trading system, the most recently received message comprising current order data.” Applicant submits amended claim 24 reasonably apprises those skilled in the art both of the utilization and scope of the invention when read in light of the specification, and is in compliance with 35 U.S.C. § 112, second paragraph. Therefore, Applicant requests that the rejection of claim 24 be removed.

In regards to claims 25-33, the Examiner asserts that claims 25-33 recite similar limitations as those found in claims 1-10; therefore the same rejections apply. Applicant submits that claim 25 is allowable for the same reasons as claim 2.

For example, amended claim 25 now recites, in part, “determine if an update flag is set, and, if set, not process each order price change information of the plurality of second messages, the plurality of second messages comprising at least one order price change information, and transmit a third message requesting current market information from the trading exchange.” Applicant submits amended claim 25 reasonably apprises those skilled in the art both of the utilization and scope of the invention when read in light of the specification, and is in compliance with 35 U.S.C. § 112, second paragraph. Therefore, Applicant requests that the rejection of claim 25 be removed. Claims 26-33 depend from claim 25 and comply with 35 U.S.C. § 112, second paragraph for the same reasons as the claim from which they depend.

Regarding claim 34, the Examiner “questions what the legal metes and bounds implied by performing at least one trade “according to a snapshot view of the market” would be.” While it's understood that a “snapshot view of the market” conveys current market data, it is not clear which data, if any particular data, from the snapshot view of the market is utilized to actively perform the trade (or to make a trade-related decision). The Examiner further cites “Applicant's cited excerpt from the specification says that the “current snapshot view” is obtained by the trader; however, the order is actually placed based on the “current and immediate order data, and not data that may be old or not otherwise current.” (Cited by Applicant on page 26 of Applicant's response) It's not the snapshot view of the market per se that is used to perform the at least one trade, but more specifically the “current and immediate order data.” Therefore, the metes and bounds of performing at least one trade “according to a snapshot view of the market” remain ambiguous.³

Claims 35-43 depend from claim 34 and comply with 35 U.S.C. § 112, second paragraph for the same reason as the claim from which they depend. Applicant submits that claim 34 is allowable for the same reasons as claim 2. Applicant further submits that with regard to claim 34, the Examiner is not quoting and/or reading the text of the application.

³ See *Office Action*, page 9.

For example, paragraph 56 of the present application states:

"In one embodiment, each of the traders 108-116 in the trading system 106 are configured to trade using a snapshot trading feature. The snapshot trading enables a trader 108-116 to obtain a current snapshot view of a selected market or markets and to place an order based on the current snapshot view of the market or markets. The snapshot feature enables a trader 108-116 to place an order based on the current and immediate order data and not data that may be old or not otherwise current. Prior systems performed trades based on serially processed trade data. Therefore, the prior systems do not have a current view of the market. The Examiner has ignored the portion of the specification that states "The snapshot trading enables a trader 108-116 ...and to place an order based on the current snapshot view of the market or markets." (emphasis added)

Nevertheless, Applicant has amended the claims to recite, in part, "wherein the snapshot market view comprises the snapshot view of the market comprises current market information and the at least one trade comprises an order, and wherein the software application comprises: a message processor to: electronically process a first message; and receive a plurality of second messages while processing the first message, each second message comprising order price change information; determine if an update flag is set, and, if set, not process each order price change information of the plurality of second messages and transmit a third message requesting the current market information from the trading exchange; receive a fourth message comprising the current market information and process the fourth message to determine the order comprising a price and quantity of an article for the market based on the current market information; and transmit a fifth message for the trading exchange, the fifth message comprising the order comprising at least one member of a group consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price; a snapshot trade manager to monitor the message processor and to set the update flag upon the message processor receiving a first one of the plurality of second messages while processing the first message." Accordingly, Applicant submits that amended claim 34 reasonably apprises those skilled in the art both of the utilization and scope of the invention when read in light of the specification.

Regarding claims 44-67, the Examiner asserts that claim 44 recite similar limitations as those found in claims 1-10; therefore, the same rejections apply. Claims 45-67 depend from claim 44 and comply with 35 U.S.C. § 112, second paragraph for the same reasons as the claim

from which they depend. Applicant submits that claim 44 is allowable for the same reasons as claims 2, 11, 16, 24, and 25.

Claim Rejections 35 U.S.C. §102

Claims 2, 3, 8, 11-17, 19-26, 31, 34-36, 41, 44-46, 51, 54-60, and 62-67 are rejected under 35 U.S.C. § 102(a, c) as being anticipated by U.S. Patent Publication No. 2001/0042040 to Keith (“Keith”). Applicant submits that Keith fails to disclose, teach, or suggest each and every element of Applicant’s claims and, thus, Keith is not an anticipatory reference under 35 U.S.C. § 102(a, c).

MPEP 2131 states: “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). A claim cannot be rejected under 35 U.S.C. § 102 unless each and every claim limitation is found in the cited reference.

Moreover, unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.⁴

The following is amended independent claim 2 with underlined portions that are not disclosed, taught, or suggested by Keith.

2. A method for trading in a market between a trading exchange and a trading system, the method comprising:
- electronically processing a first message received at at least one processor of the trading system to identify an order to transmit from the trading system, the order comprising a price for a quantity of an article for the market;
- setting an update flag at the at least one processor of the trading system if a first one of a plurality of second messages is received while processing the first message, the plurality of second messages each comprising order price change information;

⁴ *Net MoneyIn, Inc. v. Verisign, Inc.* 545 F.3d 1359 (Fed Cir. 2008).

upon completing processing of the first message, determining if the update flag is set at the at least one processor and;
if not set, transmitting a third message from the trading system via the at least one processor, the third message comprising at least one member of a group consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price; and
if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a fourth message from the trading system requesting current market information from the exchange system;
upon completing processing of the first message and after determining that the update flag is set, receiving a fifth message at the trading system comprising the current market information;
processing the fifth message at the at least one processor of the trading system and determining a current price for the quantity of the article for the market based on the current market information; and
transmitting a sixth message from the trading system via the at least one processor, the sixth message comprising at least one member of another group consisting of a different offer to sell the quantity of the article at the current price and a different bid to buy the quantity of the article at the current price.

Applicant submits that Keith fails to disclose, teach or suggest setting an update flag at the at least one processor of the trading system if a first one of a plurality of second messages is received while processing the first message, the plurality of second messages each comprising order price change information.

The present application relates to a trading system that receives a first message with current market information including a price of a quantity for an article in the market. For example, a first message could be a bid of \$10.00 in market A.⁵ Once the first message is received by the trading system the trading system begins processing the first message. While the trading system is processing the first message, the system receives secondary messages carrying

⁵ See specification, paragraph [0059].

changes in price information. Following the above example, the trading system could receive three order change notifications that adjust the price of the bid from \$10.00 to \$11.00, \$12.00, and back to \$10.00.⁶ The price change information in the secondary messages is different than the original price in the first message.⁷ Keith does not teach or suggest a trading system that receives a plurality of second messages comprising order price change information.

Rather, Keith discloses a trading system for processing financial instrument orders in three phases: 1) price discovery; 2) decision as to what to do; and 3) taking action.⁸ The trading system in Keith can discover a price in a variety of ways including selecting a price from a market status board, a discover list, or an eU.⁹ Additionally, during the price discovery process, the system can “accept” an auction mode and solicit prices.¹⁰ Regardless of how the trading system in Keith discovers the price, all of the price information relates to an initial price, not a change in price, or price change information.

Moreover, Keith does not disclose, teach or suggest setting an update flag at the at least one processor of the trading system upon receiving a first one of the plurality of second messages while processing the first message. As described in the present invention, if a message is received by the trading system from the trading exchange while the trading system is processing a prior message, the trading system trips an update flag.¹¹ Keith does not teach such a limitation.

In the Office Action, the Examiner asserts that Keith discloses setting an update flag upon receiving a first one of the plurality of second message while processing the first message, citing figures 86 and 87, and paragraphs 119, 152, 175, and 261. Applicant acknowledges that the cited paragraphs generally disclose the use of flags, conditions, and parameters for basic decision logic while processing and order. For example, Keith discloses using complicated order processing strategies as opposed to simple processing strategies, if certain conditions are true.¹² Simply using flags, conditions, or parameters for general decision logic is not the same as setting an update flag when the trading system receives a first of a plurality of second messages while processing a first message. Applicant respectfully submits that when evaluating the scope of a

⁶ See specification, paragraph [0059].

⁷ See FIG 1 and specification, paragraph [0036].

⁸ See Keith paragraph [0072].

⁹ See Keith, paragraph [0073].

¹⁰ See Keith, paragraph [0117].

¹¹ See Specification, paragraph [0062].

¹² See Keith, paragraph [0175].

claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.¹³ Nothing in the cited text teaches or suggests “setting an update flag at the at least one processor of the trading system upon receiving a first one of the plurality of second messages while processing the first message.”

Applicant also submits that Keith fails to disclose, teach or suggest upon completing processing of the first message, determining if the update flag is set at the at least one processor and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting current market information from the exchange system. Applicant has reviewed Examiner’s citations, including: figures 86 and 87; and paragraphs 87, 107, 119, 126, 152, 175, 261, 262, 336-412, 445, and 463-465. Applicant respectfully submits that nothing in the cited text teaches or suggests such limitations. Keith does not teach setting an update flag if the trading system receives a second message while processing a first message, as discussed above. Therefore, Keith cannot teach or suggest determining if an update flag is set and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting current market information from the exchange system. Further, nowhere does Keith suggest skipping the processing of secondary messages, or any messages received, based on whether or not an update flag has been set. Again, when evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.¹⁴

The Examiner also asserts that Keith discloses upon completing processing of the first message and after determining if the update flag is set, receiving a fourth message at the trading system comprising the current market information. Specifically, the Examiner cited paragraphs: 107, 119, 126, 152, 175, 261, 262, 336-412, 445, and 455-463.¹⁵ Applicant has reviewed the cited text and submits that while Keith may disclose receiving messages with market type

¹³ See, e.g., *Diamond v. Diehr*, 450 U.S. 175, 188-89 (1981).

¹⁴ See, e.g., *Diamond v. Diehr*, 450 U.S. 175, 188-89 (1981).

¹⁵ See *Office Action* page 12.

information, Keith does not teach or suggest receiving a message with market information only after determining if an update flag has been set as claimed and described. If the Examiner believes otherwise, Applicant requests the Examiner to identify the specific column and line numbers where this limitation is disclosed in compliance with MPEP § 707 and 37 C.F.R. 1.104(c)(2).

For at least the reasons discussed above, Applicant submits that Keith not only fails to teach, or suggest each and every element of amended claim 2, but the cited reference clearly does not disclose all of the limitations arranged or combined in the same way as recited in claim 2. Thus, independent claim 2 is not anticipated by Keith.

Claim 11 is patentable over Keith under 35 U.S.C. § 102. The following is amended claim 11 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

11. A method for trading in a market between a trading exchange and a trading system, the method comprising:

electronically processing a first message at at least one processor of the trading system to identify an order to transmit from the trading system, the order comprising a price for a quantity of an article for the market; and

upon completing processing the first message:

determining if at least one second message was received at the trading system while processing the first message, the at least one second message comprising at least one order price change information, and: if the at least one second message was not received, transmitting, via the at least one processor, the price and the quantity of the article for the order from the trading system for the trading exchange; and if the at least one second message was received, skipping and not processing the at least one order price change information of the at least one second message at the at least one processor of the trading system and transmitting a third message from the trading system requesting current market information from the exchange system;

receiving a fourth message at the trading system comprising the current market information;
processing the fourth message at the at least one processor of the trading system and determining a current price for an order based on the current market information; and
transmitting, via the at least one processor, a fifth message from the trading system for the trading exchange, the fifth message comprising the current price and the quantity of the article for the order.

The remarks made above with respect to claim 2 and the disclosure of Keith similarly apply to claim 11. With respect to amended claim 11, Applicant respectfully submits that Keith fails to disclose, teach, or suggest upon completing processing the first determining if at least one second message was received at the trading system while processing the first message, the at least one second message comprising at least one order price change information. As described in the present application, the trading system will set update flag when the trading system receives a first of a plurality of second messages while processing a first message. Once the trading system has finished processing the first message, the trading system will determine if a second message was received while processing the first message by analyzing the update flag and determining if it has been set. Keith does not disclose such limitations. The cited reference also fails to disclose, teach, or suggest if the at least one second message was received, skipping and not processing the at least one order price change information of the at least one second message at the at least one processor of the trading system and transmitting a third message from the trading system requesting current market information from the exchange system.

Claim 16 is patentable over Keith under 35 U.S.C. § 102. The following is amended claim 16 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

16. A method for trading between a trading exchange and a trading system comprising at least one processor, the method comprising:

electronically processing a first message at the at least one processor of the trading system to identify an order to transmit from the trading system, the order comprising price information for a quantity of an article for the market;
upon completing processing the first message:

determining if other messages were received at the trading system while processing the first message;

if other messages were not received, electronically processing the order for a trade at the at least one processor of the trading system based upon the price information from the first message; and

if other electronic messages were received, skipping, and not processing at the at least one processor, a plurality of the other messages received at the trading system and processing a most recently received message from the plurality of received messages at the trading system, the most recently received message comprising current market information; and

electronically processing the order for the trade at the at least one processor of the trading system based upon the current market information from the most recently received message.

The remarks made above with respect to claims 2 and 11 and the disclosure of Keith similarly apply to claim 16. With respect to claim 16, Keith fails to disclose, teach, or suggest upon completing processing the first message, determining if other messages were received at the trading system while processing the first message. Keith also fails to disclose, teach or suggest if other messages were not received, electronically processing the order for a trade at the at least one processor of the trading system based upon the price information from the first message. The cited reference also fails to disclose, teach or suggest if other electronic messages were received, skipping, and not processing at the at least one processor, a plurality of the other messages received at the trading system and processing a most recently received message from the plurality of received messages at the trading system, the most recently received message comprising current market information.

Claim 24 is patentable over Keith under 35 U.S.C. § 102. The following is amended claim 16 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

24. A method for trading between a trading exchange and a trading system comprising at least one processor, the method comprising:

electronically processing an order at at least one processor of the trading system;

upon completing processing of the order determining if a plurality of messages were received from the trading exchange at the trading system while processing the order and;

if the plurality of messages were not received, electronically processing the order for a trade at the at least one processor of the trading system based upon price information included in the order;
if the plurality of messages were received, skipping, and not processing at the at least one processor, a first plurality of the received messages and processing a most recently received message from the plurality of received messages at the trading system, the most recently received message comprising current order data; and

electronically processing another order at the at least one processor of the trading system based upon the current order data from the most recently received message.

The remarks made above with respect to claims 2, 11, and 16 and the disclosure of Keith similarly apply to claim 24. With respect to claim 24, Keith fails to disclose, teach, or suggest upon completing processing of the order determining if a plurality of messages were received from the trading exchange at the trading system while processing the order. The cited reference also fails to disclose, teach, or suggest if the plurality of messages were not received, electronically processing the order for a trade at the at least one processor of the trading system based upon price information included in the order. The cited reference also fails to disclose, teach, or suggest if the plurality of messages were received, skipping, and not processing at the at least one processor, a first plurality of the received messages and processing a most recently

received message from the plurality of received messages at the trading system, the most recently received message comprising current order data.

Claim 25 is patentable over Keith under 35 U.S.C. § 102. The following is amended claim 25 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

25. A system for trading in a market with a trading exchange, the system comprising:
at least one processor comprising:

a message processor to:

electronically process a first message to identify an order to transmit from
the trading system, the order comprising a price for a quantity of
an article for the market;

determine if an update flag is set, and,;

if not set, process the order based upon price information included
in the order;

if set, not process each order price change information of a
plurality of second messages, the plurality of second
messages comprising at least one order price change
information, and transmit a third message requesting
current market information from the trading exchange;

receive a fourth message comprising the current market
information and process the fourth message to determine an
order comprising a price and a quantity of an article for the
market based on the current market information; and
transmit a fifth message for the trading exchange, the fifth message
comprising the order comprising at least one member of a
group consisting of an offer to sell the quantity of the
article at the price and a bid to buy the quantity of the
article at the price; and

a snapshot trade manager to monitor the message processor and to set the update flag upon the message processor receiving a first one of the plurality of second messages while processing the first message.

The remarks made above with respect to claims 2, 11, 16, and 24 and the disclosure of Keith similarly apply to claim 25. With respect to claim 25, Keith fails to disclose, teach, or suggest a message processor to determine if an update flag is set. The cited references also fails to disclose, teach, or suggest if the update flag is not set, process the order based upon price information included in the order. The cited references also fails to disclose, teach, or suggest if the update flag is set, not to process each order price change information of the plurality of second messages, the plurality of second messages comprising at least one order price change information, and transmit a third message requesting current market information from the trading exchange.

Keith fails to disclose, teach, or suggest a snapshot trade manager to monitor the message processor and to set the update flag upon the message processor receiving a first one of the plurality of second messages while processing the first message. As discussed above, the present application discloses, “snapshot trading enables a trader 108-116 to obtain a current snapshot view of a selected market or markets **and to place an order based on the current snapshot view of the market or markets.** The snapshot feature enables a trader 108-116 to place an order based on the current and immediate order data and not data that may be old or not otherwise current. Prior systems performed trades based on serially processed trade data. Therefore, the prior systems do not have a current view of the market.

The present application further discloses:

“The snapshot trade manager 5 18 manages what data will be processed for an order. For example, the snapshot trade manager 5 18 monitors the message processor 520 to determine when the message processor has completed processing a message. If a message is received by the trade processing system 504 before the message processor 520 completes the processing, the snapshot trade manager 5 18 trips an internal update flag. In one embodiment, after the snapshot trade manager 5 18 trips the internal update flag, the snapshot trade manager deletes the current message if the message processor 520 has not completed processing of a prior message. In another embodiment, the snapshot trade manager 5 18 passes the current message to a data storage system if the message processor 520 has not completed processing a prior message.”¹⁶

¹⁶ See Specification, paragraph [0112].

Applicant respectfully submits that Keith fails to teach or suggest the snapshot manager as set forth in amended claim 25.

Claim 34 is patentable over Keith under 35 U.S.C. § 102. The following is amended claim 34 which is not disclosed, taught, or suggested by the cited reference.

34. A system for trading, comprising:

a memory;

a processor to connect with a trading exchange; and

a software application stored in the memory of the system and executable on the processor to perform at least one trade for a market with the trading exchange according to a snapshot view of the market, wherein

the snapshot view of the market comprises current market information and the at least one trade comprises an order, and wherein the software application executable by a message processor to:

electronically process a first message;

receive a plurality of second messages while processing the first message, each second message comprising order price change information;

determine if an update flag is set, and, if set, not process each order price change information of the plurality of second messages and transmit a third message requesting the current market information from the trading exchange;

receive a fourth message comprising the current market information and process the fourth message to determine the order comprising a price and a quantity of an article for the market based on the current market information; and

transmit a fifth message for the trading exchange, the fifth message comprising the order comprising at least one member of a group consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price; and

a snapshot trade manager to monitor the message processor and to set the update flag upon the message processor receiving a first one of the plurality of second messages while processing the first message.

The remarks made above with respect to claims 2, 11, 16, and 24 and the disclosure of Keith similarly apply to claim 34. With respect to claim 34, Keith fails to disclose, teach, or suggest the snapshot view of the market comprises current market information and the at least one trade comprises and order. The cited reference also fails to disclose, teach, or suggest a software application executable by a message processor to receive a plurality of second messages while processing the first message, each second message comprising order price change information. The cited reference also fails to disclose, teach, or suggest the software application executable by the message processor to determine if an update flag is set, and if set, not process each order price change information of the plurality of second messages and transmit a third message requesting the current market information from the trading exchange. The cited reference also fails to disclose, teach, or suggest the software application executable by the message processor to receive a fourth message comprising the current market information and process the fourth message to determine the order comprising a price and a quantity of an article for the market based on the current market information. The cited reference also fails to disclose, teach, or suggest the software application executable by the message processor to transmit a fifth message for the trading exchange, the fifth message comprising the order comprising at least one member of a groups consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price. The cited reference also fails to disclose, teach, or suggest a snapshot trade manager to monitor the message processor and to set the update flag upon the message processor receiving a first one of the plurality of second messages while processing the first message.

Claim 44 is patentable over Keith under 35 U.S.C. § 102. The following is amended claim 44 with underlined portions that are not disclosed, taught, or suggested by the cited reference.

44. A method for trading, comprising:
connecting a trading system with a trading exchange, the trading system comprising and operable using at least one processor; and
performing at least one trade at the at least one processor of the trading system for a market with the trading exchange according to a snapshot view of the market, wherein the snapshot view of the market comprises current market information and the at least one trade comprises an order; and
performing the trades at the trading system for the market with the trading exchange according to the snapshot view of the market comprises:
electronically processing a first message at the at least one processor of the trading system;
receiving a plurality of second messages at the trading system while processing the first message, the plurality of second messages each comprising order price change information;
setting an update flag at the at least one processor of the trading system upon receiving a first one of the plurality of second messages while processing the first message;
upon completing processing the first message, determining if the update flag is set at the at least one processor and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting the current market information from the exchange system;
upon completing processing the first message and after determining if the update flag is set, receiving a fourth message at the trading system comprising the current market information;
processing the fourth message at the at least one processor of the trading system and determining a price for a quantity of an article for the market based on the current market information; and

transmitting a fifth message from the trading system via at the at least one processor, the fifth message comprising at least one member of a group consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price.

The remarks made above with respect to claims 2, 11, 16, and 24 and the disclosure of Keith similarly apply to claim 44. With respect to claim 44 Keith fails to disclose, teach, or suggest wherein the snapshot view of the market comprises current market information and the at least one trade comprises an order. The cited references also fails to disclose, teach, or suggest performing the trades at the trading system for the market with the trading exchange according to the snapshot view of the market that comprises receiving a plurality of second messages at the trading system while processing the first message, the plurality of second messages each comprising order price change information. The cited references also fails to disclose, teach, or suggest performing the trades at the trading system for the market with the trading exchange according to the snapshot view of the market that comprises setting an update flag at the at least one processor of the trading system upon receiving a first one of the plurality of second messages while processing the first message. The cited references also fails to disclose, teach, or suggest performing the trades at the trading system for the market with the trading exchange according to the snapshot view of the market that comprises upon completing processing the first message, determining if the update flag is set at the at least one processor and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting the current market information from the exchange system. The cited references also fails to disclose, teach, or suggest performing the trades at the trading system for the market with the trading exchange according to the snapshot view of the market that comprises upon completing processing the first message and after determining if the update flag is set, receiving a fourth message at the trading system comprising the current market information. The cited references also fails to disclose, teach, or suggest performing the trades at the trading system for the market with the trading exchange according to the snapshot view of the market that comprises processing the fourth message at the at least one processor of the trading system and determining a price for a quantity

of an article for the market based on the current market information and transmitting a fifth message from the trading system via at the at least one processor, the fifth message comprising at least one member of a group consisting of an offer to sell the quantity of the article at the price and a bid to buy the quantity of the article at the price.

Claim Rejections Under 35 U.S.C. § 103

Claims 4-7, 9-10, 18, 27-30, 32, 33, 37-40, 42-43, 47-50, 52-53, stand rejected under 35 U.S.C. 103(a) as being unpatentable over Keith (US 2001/0042040 A1), as applied to claims 2, 3, 8, 11-17, 19-26, 31, 34-36, 41, 44-46, 51, 54-60, and 62-67 above, in view of Official Notice. These rejections are respectfully traversed.

Applicant respectfully submits that the Office Action did not establish a *prima facie* case of obviousness in connection with any of the above rejections because the cited references and assertions, alone or in any combination, fail to teach or suggest all of the elements of Applicant's claimed invention.

Regarding the rejection of claims 4-7, 9-10, 18, 27-30, 32, 33, 37-40, 42-43, 47-50, 52-53, as discussed above, Keith fails to disclose, teach, or suggest each and every element of amended claims, 2, 11, 16, 24, 25, 34, and 44. Accordingly, *prima facie* obviousness cannot be established.¹⁷

Without admitting agreement with Examiner's contentions regarding claims 8, 11-17, 19-26, 31, 34-36, 41, 44-46, 51, 54-60, and 62-67, Applicant notes that the Examiner's asserted Official Notice does not remedy the deficiencies of Keith's failure to disclose teach and suggest each and every element of amended independent claims 2, 11, 16, 24, 25, 34, and 44.

For example, with respect to claims 4-7, 9, and 10 the assertions of Official Notice referenced above do not remedy the deficiencies of Keith, regarding its failure to disclose, teach, or suggest: 1) setting an update flag at the at least one processor of the trading system if a first one of a plurality of second messages is received while processing the first message, the plurality of second messages each comprising order price change information; 2) upon completing processing of the first message, determining if the update flag is set at the at least one processor and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading

¹⁷ See MPEP 2142 and 2143.

system requesting current market information from the exchange system; and 3) upon completing processing of the first message and after determining if the update flag is set, receiving a fourth message at the trading system comprising the current market information, as required by amended independent claim 2. Since claims 4-7, 9, and 10 depend directly or indirectly from independent claim 2, they include all of the limitations of independent claim 2 and are therefore patentable over the combination of the cited references and assertions.

Similarly, claims 11-17, 19-26, 31, 34-36, 41, 44-46, 51, 54-60, and 62-67 are allowable over Keith and the Examiners asserted Official notice, because the Examiner's asserted Official Notice does not remedy the deficiencies of Keith's failure to disclose teach and suggest each and every element of the amended independent claims (11, 16, 24, 25, 34, and 44) and, thus, cannot disclose teach and suggest each and every element of the claims that depend therefrom. Thus, *prima facie* obviousness cannot be established.¹⁸

Conclusion

Applicant respectfully submits that amended independent claims 2, 11, 16, 24, 25, 34, and 44 are patentable for the reasons identified above, and withdrawal of the rejections of those claims is requested. Since the claims depending directly or indirectly therefrom include all of the limitations of the respective base claims, which are believed patentable, these claims also are believed to be allowable. Withdrawal of the rejections of those claims is also requested.

Because the independent claims are believed patentable, it is not necessary to discuss patentable limitations of claims depending therefrom, the references, or the rejections. The lack of a discussion of patentable limitations of those dependent claims should not be construed to mean that there are not patentable limitations in those dependent claims.

All reasons for patentability of the independent and dependent claims have not necessarily been discussed herein. No implication or construction should be made therefore.

Applicant has no further remarks with regard to any references cited by the Examiner and made of record, whether or not acted upon by the Examiner in the action's rejections, even if specifically identified in the action or any other paper or written or verbal communication. No implication or construction should be drawn about any review of the same by Applicant or Applicant's attorney.

¹⁸ See MPEP 2142 and 2143.

Based on the foregoing, it is submitted that the Applicant's claims 2-34, 36-44, and 46-67 are patentable over the references of record. Issuance of a Notice of Allowance is solicited.

Applicant's attorney welcomes the opportunity to discuss the case with the Examiner in the event there are any questions or comments regarding the response or the application.

This is intended to be a complete response to the Examiner's Office action mailed on November 27, 2009.

Respectfully submitted,
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